

18395 *Warkoff*

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-202748

DATE: June 10, 1981

MATTER OF: Department of the Interior -- Request for
Advance Decision

DIGEST:

Contract may be modified and price increased to correct mistake alleged after bid opening and prior to award where bidder, still low, reserved right to have claim considered and submitted clear and convincing evidence of mistake that was made, of manner in which it occurred and of intended prices.

The Department of the Interior requests an advance decision whether to modify a contract with Hawkins and Powers Aviation, Inc. (H&P) to correct an allegedly mistaken bid. The contract, awarded under solicitation No. 801-20, provides for the rental of 13 air tankers with pilots for use by various agencies in Alaska. We conclude that H&P's contract may be modified.

H&P was the low bidder on items 8-13 of the solicitation for which the bidder was required to offer a daily unit price for a guaranteed quantity of days and a total item amount. In addition, H&P offered "trade" discounts of 20 percent for items 8-11 and 25 percent for items 12 and 13 if H&P received the award of all six items. Since H&P was awarded all six items, its evaluated prices were as follows:

<u>Item</u>	<u>Unit Price</u>	<u>Unit Price w/Discount</u>	<u>Quantity</u>	<u>Total Item Amount</u>	<u>Item Total (w/Discount)</u>
8	\$1,530	\$1,224.00	90 days	\$137,700	\$110,160
9	1,466	1,172.80	90 days	131,940	105,552
10	1,466	1,172.80	90 days	131,940	105,552
11	1,466	1,172.80	90 days	131,940	105,552
12	1,750	1,312.50	90 days	157,500	118,125
13	1,750	1,312.50	90 days	157,500	118,125

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When apprised of its evaluated prices (including the discount) after bid opening, H&P remarked that it computed its entitlement after application of the discount as approximately \$31,000 higher for all six items and that that was what it had intended to bid. Subsequently, H&P requested correction of its bid and submitted its worksheet to demonstrate the nature of its mistake and the intended bid. H&P accepted the contract on the basis of the prices contained in its bid but reserved the right to have its mistake claim considered.

The worksheet clearly shows that, upon the condition that it received all six items, H&P intended to offer the following total item amounts and net unit prices. (The unit prices are the result of dividing the net total item amounts by the quantity of the item--90--and rounding to the lowest whole dollar):

<u>Item</u>	<u>Net Total Item Amount</u>	<u>Net Unit Prices</u>
8	\$ 115,000	\$ 1,277
9	110,000	1,222
10	110,000	1,222
11	110,000	1,222
12	125,000	1,388
13	125,000	1,388

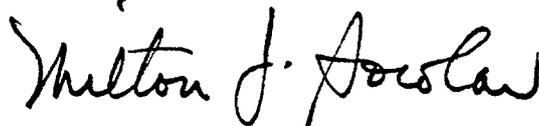
The worksheet further shows that H&P merely made a mathematical mistake in calculating the gross unit prices that would be required to achieve the net (discounted) prices it desired. For example, for item 8, for H&P to receive \$1,277 after application of a 20 percent discount it would have to bid \$1,596. However, in computing the item bid price, H&P multiplied the \$1,277 by 1.20, which resulted in an item bid price of \$1,532; if it had done the mathematical computation correctly, it would have used a multiplier of 1.25 (\$1,277 x 1.25 = \$1,596; \$1,596 less 20 percent equals \$1,277). The same computation error was made with respect to the other line items.

Generally, a bid may be increased to correct a mistake alleged after bid opening and prior to award if the bidder has shown by clear and convincing evidence that an error was made, the manner in which it occurred and the intended price,

B-202748

3

provided the corrected price does not exceed the next low acceptable bid. Servidone Construction Corp.; Midwest Construction Company, B-198711, August 12, 1980, 80-2 CPD 109; 53 Comp. Gen. 190 (1973). H&P's worksheet clearly and convincingly establishes the existence of a mistake, the manner in which it occurred and the intended net prices and the Department of the Interior has informed us that with the correction H&P would remain the low bidder. Therefore, H&P's contract may be modified to reflect its actually intended net prices.

A handwritten signature in cursive script, reading "Milton J. Jorolan".

Acting Comptroller General
of the United States